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09/927,016	08/09/2001	V. Christopher Brown	5063A	4151

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EXAMINER

RHEE, JANE J

ART UNIT

PAPER NUMBER

1772

DATE MAILED: 06/16/2003

8

Please find below and/or attached an Office communication concerning this application or proceeding.

A 38

Office Action Summary

Application No.

09/927,016

Applicant(s)

BROWN ET AL.

Examiner

Jane J Rhee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/1/03.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17,22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-5, 7-8, 14, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kerr. (5902662).

Kerr discloses a floor mat system comprising floor mats each floor mat comprising a carpet pile backing or carrier of non woven fibrous construction (col. 3 line 45), a pile material tufted into the carpet pile backing which forms a pile surface on one side of the pile backing (col. 3 lines 43-45), and a vulcanized rubber backing sheet integrated in contacting relation to the other side of the pile backing (col. 3 lines 46-47 and col. 4 lines 25-26). Kerr discloses that the rubber backing sheet comprises a blowing agent to produce a closed cell structure foam rubber (col. 4 lines 65-67, col. 1 lines 38-42). Kerr discloses that the floor mat system comprises solid vulcanized rubber reinforcement strips along at least one of the borders of each mat (col. 3 lines 54-55). Kerr discloses that the floor mat possesses suitable flexibility to be laundered on a regular basis in a standard industrial washing machine without appreciably damaging the mat or the machine (col. 1 lines 43-46). Kerr discloses that the pile material and/or the carpet pile backing is comprised of natural or synthetic fibers or blends thereof (col.

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3 lines 44-46). Kerr discloses that the floor mats is one of a plurality of floor mats formed simultaneously from a single backing sheet (col. 3 lines 60-62). Kerr fail to disclose a plurality of floor mat sizes each having the same width. Kerr fail to disclose that the floor mats may have one or three border colors. Since Kerr discloses the same materials desired by the applicant, it obvious that under industrial washing and drying conditions, each of the pile backing and rubber backing sheet are characterized by shrinkage of less than 2.5% when subjected to industrial washing and drying, such that the floor mat is substantially resistant to rippling following industrial washing and drying.

It would have been an obvious matter of design choice to have a plurality of floor mat sizes each having the same width, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

As to the border colors that the floor mat is offered, it would have been an obvious matter of design choice to have multiple different colors offered to border of the floor mat. Furthermore, color within itself is not patentable.

2. Claims 6,10-11,15,17,22 rejected under 35 U.S.C. 103(a) as being unpatentable over Kerr (5902662) in view of Sumimoto et al. (5198278).

Kerr discloses a floor mat system comprising a plurality of floor mat sizes each having the same width and each floor mat comprising a carpet pile backing or carrier of nonwoven fibrous construction a pile material tufted into the carpet pile backing which

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forms a pile surface on one side of the pile backing and a vulcanized rubber backing having a specific gravity in the range of about 0.5 to 0.98 integrated in contacting relation to the other side of the pile backing. Kerr fail to disclose that the carpet pile weighs from about 3.5 to about 4.5 ounces per square yard, the pile material weighs less than 20 ounces per square yard, the rubber backing weighs less than 58 ounces per square yard and each of mats has a total mat weight of less than 0.60 pounds per square foot. Kerr fail to disclose that the floor mats have a width of about 28 inches. Kerr fail to disclose that the backing sheet is about 60 mil thick solid rubber. Kerr fail to disclose that the sizes of mats are 28"X42", 28"X59", 49"X57", and 28"X100".

Sumimoto et al. teaches that the carpet pile weighs from about 3.5 to about 4.5 ✓ ounces per square yard (col. 4 line 12), the pile material weighs less than 20 ounces per square yard (col. 3 lines 61), the rubber backing weighs less than 58 ounces per square , yard (col. 4 line 68), each of mats has a total mat weight of less than 0.60 pounds per square foot (col. 3 line 12 plus col. 4 line 68), and that the floor mats have a width of about 28 inches (col. 6 line 9) and the sizes of the mats are 28"X42" for the purpose of creating a strong binding mat in usual use and washing wherein the product is not peeled or damaged (col 1 lines 28-29) .

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Kerr with the carpet pile that weighs from about 3.5 to about 4.5 ounces per square yard, the pile material that weighs less than 20 ounces per square yard, the rubber backing that weighs less than 58 ounces per square yard, each of mats has a total mat weight of less than 0.60 pounds per

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square foot, and that the floor mats have a width of about 28 inches and the sizes of the mats are 28"X42" in order to create a strong optimum binding mat in usual use and washing wherein the product is not peeled or damaged (col. 1 lines 28-29) as taught by Sumimoto et al.

3. Claims 9,12,13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kerr in view of Rockwell, Jr et al. (6296919)

Kerr discloses the floor mat system described above. Kerr fail to disclose that the pile material is comprised of 100% jet dyed nylon fibers. Kerr fail to disclose the floor mats are offered in four sizes and 6 colors. Kerr fail to disclose that the backing sheet is about 60 mil thick solid rubber. Rockwell, Jr et al. teaches that the pile material is comprised of 100% jet dyed nylon fibers (col. 3 lines 45) for the purpose of producing aesthetically pleasing designs (col. 3 lines 42). Rockwell, Jr et al. teaches that the backing sheet is about 60 mil thick solid rubber (col. 4 lines 14-15) for the purpose of reducing the possibility of the mat harming either the washing or drying machine or the mat being harmed itself during such rigorous procedures (col. 4 lines 39-41).

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Kerr with that the pile material is comprised of 100% jet dyed nylon fibers in order to produce aesthetically pleasing designs (col. 3 lines 42) as taught by Rockwell Jr. et al.

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Kerr with the backing sheet that is about 60 mil thick solid rubber in order to reduce the possibility of the mat harming

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either the washing or drying machine or the mat being harmed itself during such rigorous procedures (col. 4 lines 39-41).

As to the floor mats being offered in four sizes and 6 colors, it would have been an obvious matter of design choice to pick any color or size to produce a mat aesthetically pleasing to the consumer.

Response to Arguments

Applicant's arguments with respect to claims 1-17 and 22 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jane J Rhee whose telephone number is 703-605-4959. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 703-308-4251. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Jane Rhee
June 13, 2003



HAROLD PYON
SUPERVISORY PATENT EXAMINER
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